

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Land – Ranga Reddy District – Revision Petition filed by the Joint Collector, Ranga Reddy District before the Government against the orders of the Director of Appeals, O/o the C.C.L.A, Hyderabad, issued in proceedings No.P5/738/2007 Dated:07.09.2007, in respect of the land to an extent of Ac.6.00 in Sy.No.151 of Quthubuallapur Village and Mandal Ranga Reddy District-Dismissed-orders-issued.

REVENUE (ASN.V) DEPARTMENT

G.O.Ms.No. 2465

Dated:20,December, 2011
Read the following:-

- 1). Appeal Petition filed by the Joint Collector, Ranga Reddy District before the Govt., against the orders of Director, of Appeals O/o the C.C.L.A, Hyderabad., Dated:09.03.2009.
- 2) Government Memo.No.5570/Regn-I(1)/2008-5,Dated:17.12.2008.
- 3) From the Spl.CS and CCLA, Hyderabad., Lr.No.P5/363/2008 Dated:16.03.2009.
- 4). Govt.Memo.No.55770/RegistrationI/A1/2008,Dated:30.4.2008.
- 5) Government Memo.No.40305/Asn.V(3)/2009,Dated:14.9.2009.
- 6) Government Memo. No.40305/Assn.V(3)/2009,Dated:15.11.2011.

O R D E R :

In the reference 1st read above the Joint Collector, Ranga Reddy District has filed appeal before the Government on 09.03.2009 under section 166-C of A.P (T.A.) Land Revenue Act, 1317F against the orders of the Director, of Appeals, O/o the C.C.L.A, Hyderabad, passed in proceedings No.P5/738/07., Dated: 7.9.2007, on the following grounds:

- (1)Sri.K.Uma Maheshwar Rao Managing Director, M/s.Surya Teja Constructions (P) Ltd., has purchased the land bearing Sy.No.151 measuring an extent of Ac.6.00 situated at Qutubullapur village from Budda.Lingam Goud, Tirumala Mutyalu and Gorige Papaiah through registered Document No.3305/95, 394/96 etc. and intended to sell the said land, and thereby requested to issue NOC for sale of the land.
- (2) However the request of the petitioner for issue of NOC has been rejected vide Memo.No.E5/6587/2005, Dated:07.06.2007., as the said land was already notified as Government land vide G.O.Ms.No.294, Revenue (Registration-1) Department dated:09.03.2005, U/s 22-A of Registration Act, prohibiting registrations/ alienations.
- (3) Aggrieved by the said memo the petitioner has filed an appeal before the Director of Appeals O/o the C.C.L.A, Hyderabad. Upon hearing the Appeal Petition, the Director Appeals allowed the Appeal and issued proceedings dated:07.09.2007, directing the District Collector to send proposals for de-notification of the land to the Government for further action in this matter, though neither the appellants nor the respondents records disclosed any valid proceedings for change of Government land into 'Patta'.

(4) The Director, of Appeals ought to have verified, the authority under which the said Government land has been changed to Patta in the name of Keshava Rao in the Sesala Pahani for the year 1955-58 of Qutubullapur village.

(5) The Director, of Appeals neither gave sufficient time to respondents to file remarks/grounds nor insisted the appellants for producing of valid authority for change of Government land to 'Patta' land, rather pronounced the orders in a short period, while as per the Sethwar for the year 1935 of Qutubullapur village the land bearing Sy.No.151 admeasuring Ac.15.00 gts., is classified as Sarkari Kariz Khata. The Khasra Pahani for the year 1954-55 is not available in the office. As per Sesala Pahani for the year 1955-58, the land bearing Sy.No.151 admeasuring Ac.15.00 is recorded as Shikam Cheru Meeda Chilka Patta and stands patta in the name of Keshava Rao, Secunderabad. The same entries was recorded up to 1963-64 and from 1964-65 the name of Vallabhadas is recorded as Pattedar. Further the proceedings under which the entry i.e., Sarkari Khariz Khatha in the year 1935 has been changed to Patta in Sesala Pahani for the year 1955-58 is not known.

2. Against the orders of the Director Appeals, proposals were submitted to Spl.CS and CCLA, Hyderabad to accord permission for rectification of entries in the Pahani, U/s, 166-B of AP(TA) Land Revenue Act.1317 F vide letter dated:11.11.2007, and the orders from the Spl.CS and CCLA, Hyderabad are still awaited. Meanwhile the Spl.CS and CCLA, Hyderabad vide Lr.No.P5/363/2008, dated:12.09.2008 has directed to file appeal U/s 166-C of A.P.(T.A) Land Revenue Act.1371F before the Government.

3. Accordingly, appeal was preferred before the Government and after examining the case in detail, it was decided to obtain a report from the Spl.C.S & C.C.L.A., whether permission has been accorded to the Collector, for rectification of entries U/s.166-B of A.P.(T.A) L.R. Act.

4. Accordingly through the ref. 3rd read above, the Spl.C.S & C.C.L.A has informed that no such permission has been accorded U/s.166-B of A.P.(T.A) L.R. Act for rectification of the entries in the pahanies. However permitted to file Appeal before the Government, against the orders of the Dir. of Appeals.

5. In the reference 4th read above, the petitioner and the respondents have been requested to attend the hearing conducted on the Appeal before the Prl. Secretary on 14.5.2009, and the case has been heard.

6. In the reference 5th read above, the G.P. for Revenue, A.P.H.C., has been requested to take two weeks of time for filing counter in W.P.No.13190/2009, filed by M/s.Surya Teja Constructions Ltd., and he has also informed that the case has initially been taken up the Prl.Secy., (Registration) and after hearing the case it was referred to Revenue (Assignments) for further examination, and for disposing the Appeal Petition.

7. Later the Hon'ble High Court of A.P. in its interim order in W.P.M.P.No.17086/2009 in W.P.No.13190/2009, Dated:17-9-2009, has directed the Sub-Registrar concerned to receive, process and register the

documents submitted by the petitioner in respect of the land in Sy.No.151 of Qutubullapur village and return the same to the petitioner, which will be subject to further orders in the W.P.

8. Later hearings were conducted on several dates and the Counsel for the respondents and as well as the petitioner attended the said hearings and made arguments in support of their claim.

9. The Counsel for the respondent made the following arguments.

(a). That the appeal filed by the Joint Collector, is not maintainable either in Law or in facts, as such liable to be dismissed in lime line. The Joint Collector, Ranga Reddy District has filed the present appeal against the orders passed by the Director of Appeals U/s 166(C) A.P.(T.A) Land Revenue Act 1317 F and the appeal is not maintainable under the said provision. As per Section 166 (C) of the A.P.(TA) Land Revenue Act, 1317 F shows that the said provision is meant for review by Government and the Government may, at any time either Suo Moto or on application from any person interested made within 90 days of the passing of an order U/s 158 or Section 166(B) review any such order, if it was passed by them under mistake, whether of fact of Law, or in ignorance of any material fact. In the above appeal, there is neither any mistake of fact of Law nor ignorance of any material fact, and as such the so called appeal is liable to be dismissed.

(b). The Counsel for the respondent has further added that his client has purchased an extent of Ac.6.00 gts of land out of Sy.No.115 of Qutubullapur village of Qutubullapur Mandal, Ranga Reddy District., through various Registered Sale Deeds.

10. Originally the land in Sy.No.151 of Qutubullapur village admeasuring (Ac.15.00gts) was owned and possessed by Sri.T.V.Keshava Rao. S/o. T.V.Naidu along with S.No.152 of the same village. The Revenue Divisional Officer, Hyderabad East Division in his report No.B/2798/2006, dated:03.08.2006 addressed to the Collector, R.R. District., has enclosed the extract of Pahanies for the year 1955-58(Sesala Pahani) of Qutubullapur (V) wherein it is evident that the name of Keshava Rao is entered against Sy.No.151., admeasuring (Ac.15.00 gts) as Pattedar in Sesala Pahani of 1955-58. The Revenue Divisional Officer, has reported that the Khasra Pahani for the year 1954-55 is not available.

11. The Deputy Collector, Hyderabad East Division has granted permission U/s 47 & 48 of Hyderabad Tenancy and Agricultural Land Act 1950, vide permissionNo.A4/780/59,dated:25.04.1959 allowing T.V. Keshava Rao.S/o. T.V.Naidu to alienate the lands in Sy.Nos.151 and 152 of Qutubullapur village admeasuring Ac.17-38 gts in favour of Vallabdas Lohia. S/o. Baldevadas and later several transactions have been made, and M/s Surya Teja Constructions have purchased the land admeasuring Ac.6.00 gts., and applied to the Collector, Ranga Reddy District (Appellant) in the year 2005 for grant of NOC for development and sale of land of Ac.6.00 gts purchased by them. However to their utter surprise a

Memo was issued by the Collector, Ranga Reddy District No.E5/6587/2005, dated:09.06.2007 rejecting the request for issue of NOC., for the land in Sy.No.151, of Qutubullapur village, stating that as per Sethwar the said land is classified as "Kharij Khata" i.e. Government Land, and there is no recorded evidence available as to how the Khariz Khatha land became patta Land from the year 1955 onwards.

12. Against the above said orders in Memo.No.E5/6587/2005., dated:09.06.2007, issued by Collector, Ranga Reddy District., appeal was preferred before the Dir. of Appeals U/s 158 of A.O.(TA) Land Revenue Act 1317 F within the prescribed time limit, on the above and other grounds of Appeal., and the Director of Appeals vide orders in Appeal P5/738/2007 dated:07.09.2007 has discussed at length the grounds of Appeal and the documents submitted by the Collector, has observed that in view of the continuous entries of Sy.No.151, of Qutubullapur village in the Revenue Records as 'Patta' land from 1955-58, onwards which were supported by permission orders dated:25.04.1959, of the Deputy Collector, Eastern Division, Hyderabad District U/s 47 & 48 of Hyderabad Tenancy and Agricultural Land Act 1950, for sale of the said land several transactions having taken place since then as Patta land and mutated in the Revenue Records and the said sales and entries as patta land were not declared as illegal entries by the Revenue Authorities and also no claim was made by the Government right from 1955-58 onwards that the land is Government land, the action of the Collector, Ranga Reddy District in rejecting the application of the appellants for issue of NOC., for alienation of Ac.6.00gts of land in Sy.No.151 of Qutubullapur village is not justifiable. Therefore, the Director of Appeals while setting aside the impugned memo.No.E5/6587/2005, dated:09.06.2007 issued by the Collector, Ranga Reddy District., has also observed that the memo of the Collector, is basing on the entry in the Sethwar and where as the claim of the appellants is basing on the entries recorded in Pahanies from 1955-58 onwards. The crucial record i.e. change of Khariz Khata to Patta Land is not available with Revenue Authorities. Hence to give finality to the issue, the Collector, Ranga Reddy District is directed to submit necessary proposals to the Government for taking decision in the matter.

13. Accordingly the Joint Collector, Ranga Reddy District has preferred an Appeal before the Government.

14. The case was finally heard on 15.11.2011 at 04.30 PM. The Joint Collector, Ranga Reddy District and other officials of Collectorate Ranga Reddy and the respondent and his counsel were present.

15. The Joint Collector, Ranga Reddy District during the hearing mainly argued that as per the 'Sethwar' for the year 1935 of Qutubullapur village and the land bearing Sy.No.151 admeasuring Ac.15.00 gts is classified as Sarkari Kariz Katha and how the proceedings under which the entry i.e "Sarkari Khariz Khata" in the year 1935 has been changed to 'Patta' in Sesala Pahani during the year 1955-58 is not known. Accordingly, the request of the petitioner for issue of 'NOC' has been rejected and the said land was already notified as Government land vide G.O.Ms. No.294,

Revenue (Regn.I) Department, dated;09.03.2005 u/s 22-A of Registration Act, 1908., it has also been contended that neither the appellants nor the respondents records disclose any valid proceedings for change of Government land into patta. The Director, of Appeals neither gave sufficient time to the respondents to file remarks/ grounds nor insisted the appellants for production of valid authority for change of Government land into patta land and pronounced the orders in a short period.

16. Later it was decided to seek the considered opinion of the Law Department., on the following:

(a). Khasra Pahani were cancelled under section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1371 F after 50 years on the alleged ground that the entries were made fraudulently by the then patwari in respect of Government land.

17. The Law Department, while quoting Judgment on a similar case, has stated that:

18. On a similar case the Hon'ble A.P. High Court in D.Narsinga Rao Vs Government of A.P(2010(4) ALT 531) held that.,

“Now it more than 50 years since the entries are available in the revenue records against the lands held by the petitioners to an extent of Ac.44.00 in Sy.No.36 and Ac.46.00 in Sy.No.37 of Gopannapally village of Ranga Reddy District. Even if what the Government has stated in the Counter Affidavit is true, it may not be fair on the part of the respondent authorities to conduct some enquiry and correct the entries in the revenue records at this length of time. The predecessors –in-title of the petitioners have accrued substantial rights in the property as per the entries available in the Khasra Pahani for the year 1954-55 as also by way of their continued possession and enjoyment. In a given case, may be the revenue authorities are entitled to conduct some enquiry and take appropriate action in accordance with law as to the entries made in the revenue records fraudulently. But, the entries in the present case, namely, ‘Khasra Pahani’ for the year 1954-55 were not of recent origin. If the entries are made recently and fraudulently, the respondents are entitled to conduct enquiry and take appropriate action. This is not one such case. Here is a case where the entries were made more than 50 years back since now and such entries cannot be brushed aside just by saying that they were made fraudulently. The person who made those entries is not available and two generations have gone by in the meanwhile and definitely the petitioners have accrued substantial rights over the property. The purchase of the subject land by the predecessors-in-title of the petitioners under registered sale deeds as per Annexure-II does not seem to be in dispute. The respondents have not asserted that the predecessors-in-title of the petitioners or the petitioners were never in possession of the subject land. When the respondents-authorities are alleging that the entries were made fraudulently, obviously the burden of proof lies on them to prove that the entries in the Khasra Pahani for the year 1954-55 are fraudulently fabricated. May be, for that purpose, the respondents may file civil suit and get the title declared by a competent Civil Court. The exercise undertaken by the respondents amounts to exercising of power of after a long lapse of time even in the

absence of any period of limitation, is arbitrary and opposed to the concept of rule of law. The summary remedy of enquiry and correction of records after more than 50 years cannot be invoked in a case of this nature where bonafide dispute of title between the Government and the petitioners exists. Such dispute must be adjudicated upon by the ordinary Courts of law instead of correcting the records by some proceedings and evicting the petitioners.

Under those circumstances, the Court is in the opinion that issuance of impugned G.O.Ms.No.850 Revenue (Asn.III) Department dated 24.09.1991 in so far as the lands held by the petitioners to an extent of Ac.44.00 in Sy.No.36 and Ac.46.00 in Sy.No.37 of Gopannapally village of Ranga Reddy District as well as the impugned notice bearing No.D5/9388/2003 dated:31.12.2004 seeking to conduct enquiry into such serious dispute of title are arbitrary and illegal.”

19. In view of the above observations of the High Court in a similar case, in the instant case, the entries made in Pahanies cannot be set aside after a period of 50 years by exercise of summary powers under section 166-B of the A.P (Telangana Area) Land Revenue Act, 1371F. the appropriate course in such case is to file a civil suit before a competent Court by the aggrieved person.

20. In the instant case, as per the Sethwar of 1935 the land of an extent of Ac.15.00 in Sy.No.151 of Qutubullapur village was classified as Sarkari Kariz Khata. However, in the Sesala Pahani for the year 1955-58 onwards the land was recorded as patta land in the name of Sri.T.V.Kesava Rao. Three registered sale deeds were executed in respect of the above land in the years 1959, 1978 and 1996 and by virtue of the later sale deed, the respondents M/s Surya Teja Constructions Ltd., are claiming title to the property and requesting to issue no objection certificate for alienation of the above land. It is not open for the District Collector, to refuse to issue NOC at this distance of time on the ground that no record is available as to how the Kariz Khata land became Patta land in the year 1955., the only remedy available to him is to file Civil suit before the competent Court and get the title declared in favour of the Government. The person in possession of the Government property exceeding 30 years can claim title to the property by adverse possession. The time limit of 30 years for filing a civil suit under article 112 of the Limitation Act 1963, expired long back. After 55 years the Civil Court perhaps may not entertain the suit on the ground of delay. Therefore the appeal filed by the District Collector, Ranga Reddy before the Government does not have any merits and liable to be rejected as title disputes cannot be adjudicated under this provision.

21. In view of the sale of the subject land and several transactions having taken place since then as patta land, and mutated in the Revenue records and the said sales and entries as patta land were not declared as illegal entries by the lower level Revenue authorities, and also no claim was made by the authorities right from 1955-58 onwards, and the continuous entries of Sy.No.151 of Qutubullapur (V) in the Revenue records , which were supported by permission orders of the Dy. Collector Eastern Division, Hyderabad District, Dated:25.4.1959, U/s. 47 & 48 of

Hyderabad Tenancy and Agricultural land Act, 1950, for primary sale of the land, and in view the dismissal of Writ Appeal filed by the Collector, in W.A.No. 58 of 2010 against the interim orders of Hon'ble High Court of A.P. in W.P.M.P.No. 17086/2009 in W.P. No.13190/2009 where in it was directed the Sub-Registrar concerned, to receive process and register the documents submitted by the petitioner in respect of the land Sy.No. 151 of Qutubullapur village and return the same to the petitioner, and subsequently released, there were no valid grounds to interfere with the orders passed by the Director of Appeals passed in Proceedings No. P5/738/07, Dated:7.9.2007.

22. In the circumstances stated supra, the Government after careful examination of the matter hereby, uphold the proceedings issued by the Director of Appeals, O/o. the C.C.L.A., in file No.P5/738/2007, Dated:7.9.2007, duly setting aside the Appeal Petition filed by the Joint Collector, Ranga Reddy, and directed the Collector, Ranga Reddy District, to furnish necessary proposal to the Government in Revenue (Registration I) Department for de-notifying the land admeasuring Ac. 6.00 gts., in Sy.No.151, of Qutbulapur village and Mandal, R.R. District , as notified vide G.O.Ms.No.294, Revenue (Registration-I) Department, Dated:9.3.2005, U/s.22-A of Registration Act prohibiting registrations/ alienations over the land.

23. The Appeal is disposed off accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Joint Collector, Ranga Reddy District.

The Collector, Ranga Reddy District.

The Director of Appeals, O/o. the Spl.C.S. & C.C.L.A.,
M/s.Surya Teja Constructions (P) Ltd., represented by its Managing
Director, Sri. K.Uma Maheswara Rao, Flat No.106, Prasanna Residency,
Aruna Colony, Near Bhagyanagar Colony, Kukatpally, Hyderabad.

Copy to:

Revenue (Registration-I) Department.

The DC & Tahsildar. Qutubullapur, Mandal.

//FORWARDED::BY ORDER//

SECTION OFFICER